

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MICHAEL WILSON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION FILE NO.
)	
MARINEMAX EAST, INC., and)	
SEA RAY BOATS, INC., A DIVISION)	Superior Court of Fulton County
OF BRUNSWICK CORPORATION,)	Civil Action No. 2016-CV-270806
)	
Defendants.)	

NOTICE OF REMOVAL

Defendants MarineMax East, Inc. (“MarineMax”) and Sea Ray Boats Division of Brunswick Corporation (“Sea Ray”) (improperly identified as Sea Ray Boats, Inc., a Division of Brunswick Corporation), pursuant to 28 U.S.C. §§ 1441 and 1446, hereby give notice of removal of this action to the United States District Court for the Northern District of Georgia, Atlanta Division. As grounds for this removal, Defendants MarineMax and Sea Ray show as follows:

1.

On or about January 29, 2016, Plaintiff Michael (“Plaintiff”) filed suit against MarineMax and Sea Ray in the Superior Court of Fulton County, Georgia,

which county is within the Atlanta Division of this Court. The lawsuit is styled as above and numbered Civil Action Number 2016-CV-270806 in that Court.

2.

Plaintiff's suit is for a sum in excess of \$75,000, as the Purchase Agreement amount for the Sea Ray boat was in excess of \$250,000 and Plaintiff now seeks damages for all sums paid under the Purchase Agreement. (Complaint, ¶¶ 9, 18, 36, 41, 48, 51, and 53).

3.

MarineMax is a Delaware corporation with its principal place of business in Clearwater, Florida. MarineMax is not a citizen of the State of Georgia and was not a citizen of the State of Georgia when the Complaint was filed.

4.

Sea Ray is a division of Brunswick Corporation, a Delaware corporation with its principal place of business in the State of Illinois. Neither Sea Ray nor Brunswick are a citizen of the State of Georgia and neither were a citizen of the State of Georgia when the Complaint was filed.

5.

Plaintiff is a citizen and resident of the State of Georgia and was a citizen and resident of the State of Georgia on the date of filing of the aforesaid civil action and at all times thereafter.

6.

The above described action is a civil action of which this Court has original jurisdiction under the provisions of Title 28 of the United States Code § 1332 and, accordingly, is one that may be removed to this Court by MarineMax and Sea Ray pursuant to the provisions of Title 28 of the United States Code § 1441, in that it is a civil action in which the amount in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs, and is between citizens of different states.

7.

Complete diversity of citizenship exists between the parties to this action as Defendant is not a citizen of Georgia.

8.

This Court also has original jurisdiction under 28 U.S.C. § 1331 because the civil action raises issues and claims under the laws of the United States. Specifically, Plaintiff alleges violations of the Magnuson-Moss Warranty Act

(“Magnuson-Moss”), 15 U.S.C. § 2301 et seq. (Complaint, ¶¶ 42-51). Accordingly, removal is proper under 28 U.S.C. § 1441(a).

9.

This Court has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. §§ 1367(a), 1441(a). Any civil action that the courts have original jurisdiction based on a federal question may add state law claims if said claims arise out of the same “case or controversy” as those claims governed by laws of the United States, allowing them to be removed as supplementary claims. Hudson v. Delta Air Lines, 90 F.3d 451, 455 (11th Cir. 1996).

10.

MarineMax was served with the Summons and Complaint on February 12, 2016.

11.

A Sheriff’s Entry of Service was filed in Fulton Superior Court reflecting service on Sea Ray on February 16, 2016, although Sea Ray has not been improperly identified and does not maintain a registered agent at the identified location.

12.

This Notice of Removal is filed within the thirty (30) day time period prescribed by 28 U.S.C. § 1446.

13.

MarineMax and Sea Ray have given written notice of the filing of this Notice of Removal to the Plaintiff. MarineMax and Sea Ray filed a written notice with the Clerk of the Superior Court of Fulton County, copy of said Notice being marked as Exhibit “A”.

14.

MarineMax and Sea Ray have attached copies of all summons, process, pleadings, and orders served upon it in this case, such copies being marked Exhibit “B.”

WHEREFORE, Defendants MarineMax East, Inc. and Sea Ray Boats Division of Brunswick Corporation ((improperly identified as Sea Ray Boats, Inc., a Division of Brunswick Corporation) request this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted, this 11th day of March, 2016.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: Joseph Angersola
Joseph J. Angersola
Georgia Bar No. 890572
Jack A. Parker
Georgia Bar No. 507276
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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D) of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to LR 5.1(C).

This 11th day of March, 2016.

SWIFT, CURRIE, McGHEE & HIERS, LLP

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Joseph J. Angersola
Georgia Bar No. 890572
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Attorneys for MarineMax and Sea Ray

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing *Notice of Removal* upon all parties to this matter by depositing a true copy of same in the United States Mail, proper postage prepaid, addressed as follows:

T. Michael Flinn
Law Offices of T. Michael Flinn
402 Tanner Street
Carrollton, GA 30117

This 11th day of March, 2016.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: Joseph Angersola
Joseph J. Angersola
Georgia Bar No. 890572
Jack A. Parker
Georgia Bar No. 507276
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